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Atty. Dkt. No. 032026-0675

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Daniel W. van der Weide, et al.

Title: DIRECT RADIO-FREQUENCY
DETECTION OF NUCLEOTIDE
HYBRIDIZATION AT
MICROELECTRODES

Appl. No.: 10/694,028

Filing Date: 10/27/2003

Examiner: Thomas J. O'Farrell

Art Unit: 1645

<p>CERTIFICATE OF MAILING</p> <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below.</p> <p><u>Paul S. Hunter</u> (Printed Name)</p> <p><u>[Signature]</u> (Signature)</p> <p><u>November 22, 2005</u> (Date of Deposit)</p>
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RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed October 31, 2005, Applicant hereby provisionally elects Group I, Claims 1-9, 14-20 for examination, with traverse.

The Examiner has required restriction between Claims 1-9 and 14-20 (Group I), drawn to apparatus for detection of nucleotide hybridization, classified in class 204, subclass 194, and Claims 10-13 (Group II), drawn to a method for detecting hybridization of nucleotides bound to the surface of a working electrode, classified in class 435, subclass 6. Restriction was required because the Examiner thought that the product as claimed could be made by a materially different process than that set forth in Claims 10-13. Applicant respectfully disagrees.

The Commissioner may require restriction if two or more independent and distinct inventions are claimed in one application (35 U.S.C. §121). In the present case, although the claimed subject matter may be classified in different classes, the inventions are not independent. The Assignee of the present application has represented to the undersigned attorney that the product set forth in Claims 1-9 and 14-20 can be obtained only by the process described in Claims 10-13.

If the Examiner is aware of another way to make the product as claimed, using a process which is materially different from that set forth in Claims 1-20, Applicant respectfully requests the Examiner to substantiate his/her position in greater detail. Otherwise, it is respectfully requested that the restriction requirement be withdrawn, and each of Claims 1-9 and 14-20 , and 10-13 presently pending in this application be examined.

Applicants believe no fee is required for this submission, however, the Commissioner is hereby authorized to charge any fees which may be required regarding this application under 37 C.F.R. §§ 1.16 1.17 to Deposit Account No. 50 2350. If any extensions of time are needed for timely acceptance of papers submitted herewith, applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2350. A duplicate copy of this response is included for this purpose.

Respectfully submitted,

Date November 22, 2005

By 

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